

901 NORTH 5th STREET
KANSAS CITY, KANSAS 66101

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

CONSENT AGREEMENT AND FINAL ORDER

This proceeding was initiated on or about June 30, 2003, when the United States Environmental Protection Agency, Region VII (Complainant or EPA) issued a Complaint, Compliance Order and Notice of Opportunity for Hearing (Complaint) to Jerry K. Miller, owner of the property where the facility was located (Respondent Miller) and to Cheyenne and Rhonda ReVelle, d/b/a/ ReVelle Wood Treating (Respondent RWT), the operators of the facility. Pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984 (RCRA), Title 42 United States Code (U.S.C.), Section 6901 et seq., the Complainant sought civil penalties for alleged violations of Section 3005 of RCRA and RSMo § 260.390(1). The Complainant and Respondents subsequently entered into negotiations in an

attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order (CAFO) is the result of such negotiations and resolves the liability of Respondent RWT for administrative civil penalties arising from the allegations in the Complaint. Administrative civil penalty claims against Respondent Jerry K. Miller are resolved in a separate agreement.

II. CONSENT AGREEMENT

1. Respondent RWT and the EPA agree to the terms of this Consent Agreement and Final Order and Respondent RWT agrees to comply with the terms of the Final Order. The terms of this Consent Agreement and the Final Order shall not be modified except by a subsequent written agreement between the parties.

2. Respondent RWT admits the jurisdictional allegations of the Complaint and agrees not to contest the EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order set forth below.

3. Respondent RWT neither admits nor denies the factual allegations and legal conclusions set forth in the Complaint.

4. Respondent RWT waives its right to further contest the factual allegations and legal conclusions set forth in the Complaint in this or subsequent proceedings to enforce the terms of this Consent Agreement and Final Order, and agrees not to appeal the Final Order set forth below.

5. Respondent RWT explicitly waives its right to a hearing on any issue of fact or law set forth in the EPA's Complaint.

6. Respondent RWT and the EPA each agree to bear their own costs and attorneys' fees.

7. Respondent RWT agrees that, in settlement of the claims alleged in the Complaint, Respondent will not resume wood treating activities at the property located at 13495 Highway 38, Bucyrus, Missouri.

8. This Consent Agreement and Final Order shall be effective upon entry of the Final Order by the Regional Judicial Officer for the EPA, Region VII. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

9. Each signatory of this Consent Agreement and Final Order certifies he or she is fully authorized to enter into the terms of the Consent Agreement and Final Order.

10. The Parties agree that Respondent RWT will pay no monetary penalty for the violations noted herein based on Respondent RWT's financial inability to pay any penalty at this time.

11. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

III. FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

1. Immediately upon the effective date of this Final Order, Respondent shall refrain from resuming wood treating activities at the property located at 13495 Highway 38, Bucyrus, Missouri, unless and until the facility is in compliance with all requirements of RCRA.

2. Within forty-five (45) days of the effective date of this Final Order, Respondent RWT shall submit a Work Plan for the removal of any pentachlorophenol product, waste or residues from the three working tanks, the two retorts and all associated piping (equipment). The Work Plan shall be submitted to the EPA's representative identified in paragraph 3 below, and shall include, at a minimum, the following:

a. Product and product residues removed from the equipment must be properly shipped off and/or disposed. Product must be shipped off or disposed in accordance with RCRA and with the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 to 136y (FIFRA), and residues must be disposed in accordance with RCRA as hazardous waste. In addition, Respondent RWT is responsible for ensuring that all proposed activities comply with any other applicable laws and regulations.

b. All equipment must be properly rinsed out (e.g., triple rinsed), washed, or otherwise properly decontaminated and all waste water or other cleanout materials shall be disposed in accordance with RCRA as hazardous waste.

c. The Work Plan must include a schedule for implementation of each activity and completion of the project(s).

3. The Work Plan shall be submitted to the EPA's representative:

Elizabeth Koesterer
Environmental Engineer
U.S. EPA Region VII, ARTD/RESP
901 North 5th Street
Kansas City, Kansas 66101

The EPA's representative shall review the Work Plan and will either approve the Work Plan, disapprove the Work Plan and provide comments, or unilaterally modify the Work Plan. If the

Work Plan is disapproved and comments are provided to Respondent RWT, the comments provided must be incorporated and the Work Plan must be resubmitted within fourteen (14) days of receipt of the EPA's comments. Failure to resubmit a Work Plan which incorporates all of the EPA's comments shall result in the Work Plan being unilaterally modified. The EPA reserves the right to unilaterally modify the Work Plan without first providing comments.

a. Within fourteen (14) days of receipt of the EPA approval of the Work Plan, or resubmitted Work Plan, or unilaterally modified Work Plan, Respondent RWT shall commence implementation of the Work Plan in accordance with the schedules contained therein.

b. Failure by Respondent RWT to complete all activities in accordance with the schedules contained in the approved or modified Work Plan shall constitute a violation of the terms of this Final Order.

4. Within fourteen (14) days of completion of all activities required under the Work Plan, Respondent RWT shall submit a Completion Report to the EPA's representative identified in paragraph 3 above. The Completion Report shall include, at a minimum, the following:

a. A description of all activities taken pursuant to the Work Plan; and

b. Copies of all manifests, bills of lading or other shipping documentation showing the shipment and/or disposal of all product, product residues, waste water or other cleanout materials, and any other solid wastes generated in the course of undertaking activities pursuant to the Work Plan.

c. The EPA reserves the right to require additional documentation or direct that additional activities be undertaken if the Completion Report does not adequately demonstrate, to

the EPA's satisfaction, that all activities were completed in accordance with the Work Plan, RCRA, FIFRA or other applicable laws or regulations.

5. The EPA will provide Respondent RWT with written notice upon the EPA's approval of the Completion Report.

C. Parties Bound

6. This Final Order shall apply to and be binding upon the EPA and Respondent RWT and Respondent RWT's agents, successors and/or assigns.

D. Reservation of Rights

7. This Consent Agreement and Final Order addresses Respondent RWT's liability for administrative civil penalties for all administrative matters alleged in the EPA's June 30, 2003 Complaint, Docket No. RCRA-07-2003-0205. The EPA reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law. The EPA also reserves the right to take any necessary cleanup action under RCRA or any other applicable law with respect to any hazardous waste remaining in place at the facility, and to seek reimbursement of any costs incurred in such cleanup actions, where allowed under applicable law.

8. Notwithstanding any other provision of this Consent Agreement and Final Order, the EPA reserves the right to enforce the terms of the Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed twenty-seven thousand five hundred dollars (\$27,500) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

9. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this Consent Agreement and Final Order.

10. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants or contaminants found at, taken to, or taken from the facility located at 13495 Highway 38, Bucyrus, Missouri.

11. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement or cleanup action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other applicable statutory authority, should the EPA find that any past or future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at the facility located at 13495 Highway 38, Bucyrus, Missouri may present a threat to human health or the environment.

12. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

13. The provisions of this Consent Agreement and Final Order shall be deemed satisfied upon receipt of the notice set forth in paragraph 5 above.

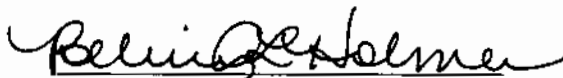
For Respondents Cheyenne and Rhonda ReVelle, d/b/a ReVelle Wood Treating:

Cheyenne Rhonda ReVelle 6-3-04
Name: Date

Printed Name: Cheyenne ReVelle
Rhonda ReVelle

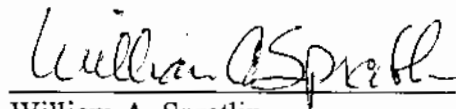
Title: Operators

For the Complainant:



Belinda L. Holmes
Senior Assistant Regional Counsel

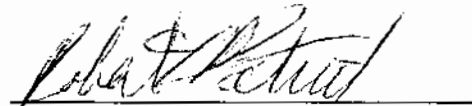
6/9/04
Date



William A. Spratlin
Director
Air, RCRA, and Toxics Division

6/9/04
Date

IT IS SO ORDERED. This Final Order is effective upon its final entry by the Regional
Judicial Officer.



Robert Patrick
Regional Judicial Officer

June 9, 2004
Date

IN THE MATTER OF Jerry K. Miller and Cheyenne and Rhonda ReVelle, d/b/a Revelle Wood Treating,
Respondents
Docket No. RCRA-07-2003-0205

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Belinda L. Holmes
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Facsimile and First Class Pouch Mail to:

Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

and

Honorable Spencer T. Nissen
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460


Copy by U.S. Certified Mail,
Return Receipt Requested, to:

David Shorr, Esq.
Lathrop & Gage
314 E. High St.
Jefferson City, MO 65101

and

John Price, Esq.
Carnahan Evans Cantwell & Brown, PC
2805 S. Ingram Mill Rd.
P.O. Box 10009
Springfield, MO 65808

Dated: 6/9/04


Kathy Robinson
Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)

Jerry K. Miller)

and)

Cheyenne and Rhonda ReVelle,)
d/b/a Revelle Wood Treating)
13495 Highway 38)
Bucyrus, Missouri)

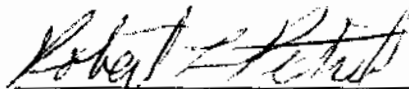
Respondents)

Docket No. RCRA-07-2003-0205

ORDER AUTHORIZING FACSIMILE FILING

Pursuant to 40 C.F.R. §22.5(a)(1), facsimile filing of the telefaxed signature page (page 6) of the Consent Agreement and Final Order in this proceeding is hereby authorized.

Dated: June 9, 2004



Robert L. Patrick
Regional Judicial Officer

IN THE MATTER OF Jerry K. Miller and Cheyenne and Rhonda ReVelle, d/b/a Revelle Wood Treating,
Respondents
Docket No. RCRA-07-2003-0205

CERTIFICATE OF SERVICE

I certify that the foregoing Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Belinda L. Holmes
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Facsimile and First Class Pouch Mail to:

Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

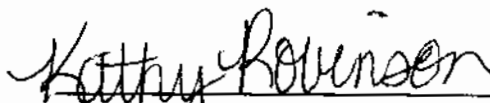
and

Honorable Spencer T. Nissen
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

David Shorr, Esq.
Lathrop & Gage
314 E. High St.
Jefferson City, MO 65101

Dated: 4/19/04


Kathy Robinson
Regional Hearing Clerk